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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,514	10/16/2003	Hideaki Sugiya	826.1389D2RE	6724
21171	7590	01/10/2012		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER HELLNER, MARK	
			ART UNIT 3663	PAPER NUMBER
			MAIL DATE 01/10/2012	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/686,514

**Applicant(s)**

SUGIYA ET AL.

**Examiner**

MARK HELLNER

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-51 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-51 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## DETAILED ACTION

### COMMENTS

The claims filed 9/1/2011 deleted the following limitation:

"wherein, when the first pumping light is not being supplied to the optical fiber and is thereby not traveling through the optical fiber, a loss in the optical fiber is less than a difference between a minimum light level prescribed in a system in which the optical amplifier is installed and a minimum light level of the split portion that can be monitored..."

As a result, the scope of claims 1-51 now correspond to the claims presented on 10/16/2003.

The limitation cited above provided the basis for the argument overcoming the rejection of 5/25/2006.

As a result, the following rejection is applied.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-25, 27-32, 34-37 and 39-51 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 05-292036.

JP 05-292036 discloses an optical amplifier (figure 1) comprising: an optical fiber (1) through which an input light travels, the input light being amplified as the input light travels through the fiber via first pumping light traveling through the fiber in an opposite direction (suggested by figure 2a, element 93) than the input light; an optical splitter (3) splitting off a portion of the amplified input light, the first pumping light being controlled in accordance with a monitored power of said split portion (taught by operation of elements 7a and 8); and an optical fiber amplifier (2), optically connected to the splitter, amplifying the input light having a portion split off therefrom via second pumping light (suggested by the pumping means disclosed by figures 2a and 2b).

Claim 1 reads on the structure recited above.

Claim 2 is a part of fibers 1 and 2.

Claim 3 is taught by elements 95 or 84 of figures 2a and 2b.

Claims 4-6 are taught by element 7a.

Claims 7-25, 27-32, 34-37 and 39-51 are taught by the structure applied to claims 1-6.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 33 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 05-292036 in view of JP 05-048207.

Claims 26, 33 and 38 are different from JP 05-292036 in that they recite no components between the splitter and the fiber amplifier.

JP 05-048207 teaches (figure 1 ) that it was known at the time of the present application to have no optical components between a splitter and amplifying fiber.

It would have been obvious to have applied this teaching to JP 05-292036 when seeking to reduce parts, thus producing claims 26, 33 and 38.

Any inquiry concerning this communication should be directed to MARK HELLNER at telephone number (571)272-6981.

/Mark Hellner/

Primary Examiner, Art Unit 3663